



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

**COPY MAILED**

**JUN 21 2007**

In re Application of : **OFFICE OF PETITIONS**  
Kusakabe, et al. :  
Application No. 09/671,623 : DECISION ON PETITION  
Filed: September 28, 2000 :  
Docket No.: 862.C2011 :

This is a decision on the petition under 37 CFR 1.181, filed May 30, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed September 26, 2005. Notice of Abandonment was mailed March 30, 2007.

Petitioners assert non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

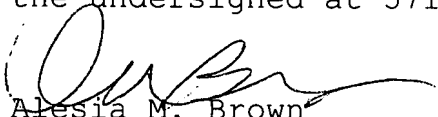
The arguments and supporting documentation presented have been carefully considered. Moreover, petitioners have included a copy of a docket report covering the time period that a response would have been due had it been received. In view thereof, the evidence

presented support the conclusion that the Office communication dated September 26, 2005 was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

  
Alesia M. Brown  
Petitions Attorney  
Office of Petitions